

JURISDICTION:

DELAWARE

General Reference:

This chapter summarizes Delaware State statutes related to speed.
Delaware Code Annotated

Basis for a Speed Law Violation:

Basic Speed Rule:

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and without having regard to the actual and potential hazards then existing. Speed shall be so controlled as to avoid a collision. Title 21, §4168(a)

Statutory Speed Limit:

65 MPH on "all portions of Delaware State Route 1 located between the Red Lion Creek and the Appoquinimink River." Any speed in excess of this limit is "absolute evidence" that the speed is "not reasonable or prudent and that it is unlawful." Title 21, §4169(d)

See Other below.

55 MPH on 4 lane roadways and divided highways Title 21, §4169(a)(1)e
50 MPH on 2 lane roadways Title 21, §4169(a)(1)d
25 MPH in either a business or residential district Title 21, §4169(a)(1)a & (a)(1)b
20 MPH at school crossings where signs are in effect during specific time periods Title 21, §4169(a)(1)c

Posted (Maximum) Speed Limit:

I. Based on engineering studies and traffic investigations, the State Department of Transportation may increase or decrease the above speed limits on any particular portion of a highway.¹ Title 21, §4169(b)
II. Based on engineering studies and traffic investigations, local authorities, within their respective jurisdictions, may increase or decrease the above speed limits on any particular portion of a highway. However, the alteration of speed limits on State maintained highways requires the approval of the Department of Public Safety. Title 21, §4170(b) & (b)

Minimum Speed Limit:

I. A person shall not operate a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic. Title 21, §4171(a)
II. A person, driving at less than the normal speed of traffic, shall drive in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway. Title 21, §4114(b)

Posted (Minimum) Speed Limit:

A minimum safe speed limit on a highway (or a part thereof) may be established. Title 21, §4171(b)

Other:

No person shall exceed the maximum posted speed limit which has been established for any bridge or elevated structure. Title 21, §4173(a)

Adjudication of Speed Law Violations:

Civil/Criminal Adjudication of Violation:

All Speed Law Violations are Misdemeanors. Title 11, §233(c) and

Adjudication of Speed Law Violations:
(continued)

Civil/Criminal Adjudication of Violation:
(continued)
Other:

Title 21, §§4168, 4169, 4170, 4171, 4173 & 4205(a)

Sanctions Following an Adjudication of a Speed Law Violation:

¹This includes the establishment of different highway speed limits either (1) for different types of vehicles (e.g., persons, who operate certain types of trucks may be required to drive these vehicles at a slower speed than those who operate other types of motor vehicles), (2) at different times of the day, (3) for various weather conditions or (4) for other factors bearing on safe speeds. Title 21, §4169(b)

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Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,
Etc.):

I. Sanctions for Violating Speed Rules Except as Noted Below: 1st offense-None Subsequent offense (within 12 months)-**10 to 30 days** Title 21, §4205(a)

II. Sanctions for Violating Maximum or Posted Maximum Speed Limits (Title 21, §4169 Violations): 1st offense-None Subsequent offense (within 24 months)-**10 to 30 days** Title 21, §4169(c)(1)

None

Mandatory Minimum Term:

Fine:

Amount (\$ Range):

I. Sanctions for Violating Speed Rules Except as Noted Below: 1st offense-\$25 to \$115 Subsequent offense (within 12 months)-**\$57.50 to \$230** Title 21, §4205(a)

II. Sanctions for Violating Maximum or Posted Maximum Speed Limits (Title 21, §4169 Violations): 1st offense-\$20 Subsequent offense (within 24 months)-**\$25** Title 21, §4169(c)(1)

None

Mandatory Min. Fine (\$):

Other Penalties:

Traffic School:

Other:

Defensive Driving Course²

Additional Fines: The following additional fines apply for exceeding the maximum or maximum posted speed limit under Title 21, §4169.

I. Exceeding the speed limit by >5 MPH but <16 MPH-1st offense-\$1 per MPH over the speed limit Subsequent offense-\$2 per MPH over the speed limit Title 21, §4169(c)(2)

II. Exceeding the speed limit by >15 MPH but <20 MPH-1st offense-\$2 per MPH over the speed limit Subsequent offense-\$3 per MPH over the speed limit Title 21, §4169(c)(3)

III. Exceeding the speed limit by >19 MPH-1st offense-\$3 per MPH over the speed limit Subsequent offense-\$4 per MPH over the speed limit Title 21, §4169(c)(4)

Licensing Action:

Type of Licensing Action
(Susp/Rev):

Suspension² Title 21, §§302 & 2733³

²**Point System.** I. If an offender accumulates 12, 14, 16, 18, 20 or >20 points, their license is suspended respectively for 2, 4, 6, 8, 10 or 12 months. II. The following points are assigned for speeding and speed related violations: One (1) to 9 MPH over the posted limit-2 points; 10 to 14 MPH over the limit-4 points; 15 to 19 MPH over the limit-5 points; ≥20 MPH over the limit-5 points; reckless driving-6 points; other violations-2 points. III. If an offender completes a defensive driving course, the suspension period may be reduced by 1 or 2 months. However, the minimum period of suspension is 1 month. Policy Regulation No. 45 issued under the authority of Title 21, §§302 & 2733 by the Department of Public Safety

Additional Suspensions. I. For exceeding the speed limit by ≥25 MPH, a 2 month suspension plus a 1 month for each additional 5 MPH over

the initial 25 MPH. II. For exceeding the speed limit by ≥ 90 MPH, suspension for 1 year. Policy Regulation No. 45 issued under the authority of Title 21, §§302 & 2733 by the Department of Public Safety

³Title 21, §2733 authorizes the Department of Public Safety to suspend a persons's license based on whether such person is either an habitual, reckless or negligent driver.

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Sanctions Following an Adjudication of a Speed Law Violation: (continued)

Term of License Withdrawal
(Days, Months, Years, etc.):
Mandatory Minimum Term of
Withdrawal:

Not more than **1 year**²

The suspensions either under the Point System or for excessive speeding appear to be mandatory.²

Miscellaneous Sanctions
Not Included Elsewhere:

Other Criminal Actions Related to Speeding:

Racing on Highway⁴:

Misdemeanor Title 11, §233(c) & Title 21, §4172

Sanctions:

Criminal Sanction:

Imprisonment (Term):

1st offense-10 to 30 days Subsequent offense-15 to 60 days Title 21, §4172(d)

Mandatory Minimum Term:

None

Fine (\$ Range):

1st offense-\$25 to \$200 Subsequent offense-\$50 to \$400 Title 21, §4172(d)

Mandatory Minimum Fine:

None

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Suspension Title 21, §4172(d)

Length of Term of

Licensing Withdrawal:

1st offense-Not more than 6 months Subsequent offense-1 year Title 21, §4172(d)

Mandatory Action--Minimum

Length of License

Withdrawal:

1st offense-1 month⁵ Policy Regulation No. 45 issued under the authority of Title 21, §§302 & 2733 by the Department of Public Safety Subsequent offense-1 year⁶ Title 21, §4172(d)

⁴Title 21, §4172(a) prohibits a person from racing, speed competitions, speed contests, drag racing or acceleration contests, et al. Title 21, §41-72(b) prohibits a person from accelerating or trying to accelerate a vehicle at a rate of speed which causes the drive wheels to spin or slip on the road surface.

⁵In the case of a wheel spinning offense, there is no licensing sanction for a first offense. However, the mandatory 1 year suspension applies for subsequent offenses. Policy Regulation No. 45 issued under the authority of Title 21, §§302 & 2733 by the Department of Public Safety

⁶Given the language used in Title 21, §4172(d), this sanction appears to be mandatory.

Other Criminal Actions Related to Speeding:
(continued)

Racing on Highway: (continued)
Other:

Reckless Driving:

Misdemeanor Title 11, §233(c) & Title 21, §4175(a)

Sanction:

Criminal:

Imprisonment (Term):

1st offense-10 to 30 days Subsequent offense (within 3 years)-**30 to 60 days** Title 21, §4175(2)

Mandatory Minimum Term
of Imprisonment:

1st offense-None⁷ Subsequent offense (within 3 years)-**30 days**⁴ Title 21, §4175(2)

Fine (\$ Range):

1st offense-\$100 to \$300 Subsequent offense (within 3 years)-**\$300 to \$1,000** Title 21, §4175(2)

Mandatory Minimum Fine:

1st offense-\$100⁸ Subsequent offense (within 3 years)-**\$300** Title 21, §4175(2)

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

Suspension via the Point System²

Length of Term of License

Withdrawal Action:

Not more than **1 year**²

Mandatory Term of License

Withdrawal Action:

The suspensions under the Point System appear to be mandatory.²

Other:

Careless⁹ or Inattentive Driving¹⁰:

Misdemeanor Title 11, §233(c) and Title 21, §4176(a) & (b)

Sanction:

Criminal:

⁷The law provides that for a first offense the imprisonment sanction can be suspended. As a result, it would seem that the minimum incarceration sanction for subsequent offenses is mandatory. Title 21, §4175(b)

⁸Except for incarceration for a first offense, the law provides that the sanctions for reckless driving cannot be suspended. As a result, it would seem that the minimum fine sanction for either a first or subsequent offenses are mandatory. Title 21, §4175(b)

⁹Careless Driving: Operating "a vehicle in a careless or imprudent manner, or without due regard for road, weather and traffic conditions then existing...." Title 21, §4176(a)

¹⁰Inattentive Driving: Operating a vehicle while either failing "to give full time and attention to the operation of the vehicle" or failing "to maintain a proper lookout while operating the vehicle." Title 21, §4176(b)

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Imprisonment (Term):	<u>1st offense-None</u> <u>Subsequent offense</u> (within 3 years)- 10 to 30 days Title 21, §4176(c)
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	<u>1st offense-\$25 to \$115</u> <u>Subsequent offense</u> (within 3 years)- \$50 to \$230 Title 21, §4176(c)
Mandatory Minimum Fine:	None

Other Criminal Actions Related to Speeding: (continued)

Careless or Inattentive Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

Suspension via the Point System²

Length of Term of License

Withdrawal Action:

Not more than **1 year**²

Mandatory Term of License

Withdrawal Action:

The suspensions under the Point System appear to be mandatory.²

Other:

Aggressive Driving¹¹:

Sanction:

Misdemeanor Title 11, §233(c) & Title 21, §4175A

Criminal:

Imprisonment (Term):

1st offense-10 to 30 days Subsequent offense (within 3 years)-**30 to 60 days** Title 21, §4175A(c)

Mandatory Minimum Term of Imprisonment:

1st offense-10 days Subsequent offense (within 3 years)-**30 days** The law provides that an offender's sentence cannot be suspended. Title 21, §4175A(c)

Fine (\$ Range):

1st offense-\$100 to \$300 Subsequent offense (within 3 years)-**\$300 to \$1,000** Title 21, §4175A(c)

Mandatory Minimum Fine:

1st offense-\$100 Subsequent offense (within 3 years)-**\$300** The law provides that an offender's sentence cannot be suspended. Title 21, §4175A(c)

Administrative Licensing Actions:

Type of Licensing Action

¹¹"No person shall drive any vehicle in an aggressive manner...." Title 21, §4175A(a) Aggressive Driving is defined as continuous conduct which violates three or more of the following rules-of-the-road: (1) Failing to obey a traffic-control device (Title 21, §4107); overtaking on the right (Title 21, §4117); failing to drive within a marked lane for traffic (Title 21, §4122); following too closely (Title 21, §4123); failing to yield the right-of-way to approaching traffic when turning left (Title 21, §4132); failing to yield to approaching traffic when entering or crossing a roadway (Title 21, §4133); failing to signal when turning or stopping (Title 21, §4155); failing to stop at stop signs or yield at yield signs (Title 21, §4164); overtaking and passing a stopped school bus with flashing lights (Title 21, §4166(d)); failing to obey the basic speed rule (Title 21, §4168); and, failing to obey a posted speed limit (Title 21, §4169). Title 21, §4175A(b)

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(Susp/Rev):

None However, since an offender may be prosecuted for and convicted of the underlying offenses, they are subject to licensing action associated with violating such offenses.

Length of Term of License

Withdrawal Action:

Mandatory Term of License

Withdrawal Action:

Other:

I. An offender must complete a course of instruction on behavioral modification or attitudinal driving. Title 21, §4175A(d)

II. An aggressive driving law violator may also be prosecuted for and convicted of the underlying offenses. Title 21, §4175A(e)

Commercial Motor Vehicle (CMV) Operators¹²:

Grounds for Disqualification:

A person is subject to CDL disqualification if, while driving a CMV, they (1) commit 2 "serious traffic violations"¹³ within a 3 year period or (2) commit 3 such violations within a 3 year period. 21 §2612(e)

Period of Disqualification:

2 serious violations (within 3 years)-**60 days** 3 serious violations (within 3 years)-**120 days** 21 §2612(e)

Period of Mandatory Disqualification:

2 serious violations (within 3 years)-**60 days** 3 serious violations (within 3 years)-**120 days** 21 §2612(e)

¹² A person who has obtained a commercial driver's license (CDL) and is qualified to operate a commercial motor vehicle. A commercial motor vehicle is defined as a vehicle designed to carry either passengers or property and either has a gross vehicle weight of ≥26,001 lbs., is designed to transport 16 or more persons, or is transporting hazardous materials which requires that the vehicle to be placarded in accordance with U.S. Department of Transportation regulations. 21 §2603(6)

¹³ A "serious traffic violation" includes exceeding the speed limit by 15 or more MPH or reckless driving. 21 §2603(22) & 49 CFR 383.5